

Introduced: 1/16/85
Referred: Health, Education & Social
Services, Judiciary and Finance

1 IN THE HOUSE

BY COLLINS

2

HOUSE BILL NO. 54

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to penalties and education for
7 persons convicted of driving while intoxicated and
8 refusal to submit to a chemical test."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 28.35.030(c) is amended to read:

11 (c) Upon conviction under this section the court shall impose a
12 minimum sentence of imprisonment of not less than 240 [72] consecutive
13 hours and a fine of not less than \$500 [\$250] if the person has not
14 been previously convicted in this or another jurisdiction of driving
15 while intoxicated under this or another law or ordinance with substan-
16 tially similar elements or refusal to submit to a chemical test under
17 AS 28.35.032 or another law or ordinance with substantially similar
18 elements. Upon conviction under this section the court shall impose a
19 minimum sentence of imprisonment of not less than 20 consecutive days
20 and a fine of not less than \$750 [\$500] if, within the preceding 10
21 years, the person has been previously convicted once in this or another
22 jurisdiction of driving while intoxicated under this or another law
23 or ordinance with substantially similar elements or refusal to submit
24 to a chemical test under AS 28.35.032 or another law or ordinance with
25 substantially similar elements. Upon conviction under this section
26 the court shall impose a minimum sentence of imprisonment of not less
27 than 30 consecutive days and a fine of not less than \$1,000 if, within
28 the preceding 10 years, the person has been previously convicted in
29 this or another jurisdiction of more than one of the following

1 offenses or has more than once been previously convicted of one of the
2 following offenses: (1) driving while intoxicated under this or another
3 law or ordinance with substantially similar elements; (2) refusal
4 to submit to a chemical test under AS 28.35.032 or another law or
5 ordinance with substantially similar elements. A sentence under this
6 section shall be reduced by 72 hours upon certification under AS 33.-
7 30.052 that the prisoner completed 24 hours of alcohol and drug abuse
8 education while in custody. The execution of sentence may not be
9 suspended nor may probation be granted except on condition that the
10 minimum imprisonment provided in this section is served. Imposition of
11 sentence may not be suspended. In addition, if the offense involved
12 driving a motor vehicle for which a driver's license is required, the
13 person's driver's license shall be revoked in accordance with
14 AS 28.15.181 and the vehicle used in commission of the offense may be
15 forfeited under AS 28.35.036. In addition, the court shall order, and
16 a person convicted under this section shall undertake, for a term
17 specified by the court, that program of alcohol education or
18 rehabilitation that the court, after consideration of any information
19 compiled under (d) of this section, finds appropriate.

20 * Sec. 2. AS 28.35.030(e) is amended to read:

21 (e) A person who is sentenced to imprisonment for 240 [72]
22 consecutive hours upon a first conviction under (c) of this section
23 and who is not released from imprisonment after 240 [72] hours may not
24 bring an action against the state or a municipality or its agents,
25 officers, or employees for damages resulting from the additional
26 period of confinement if

27 (1) the employee or employees who released the person
28 exercised due care and, in releasing the person, followed the standard
29 release procedures of the prison facility; and

1 (2) the additional period of confinement did not exceed 12
2 hours.

3 * Sec. 3. AS 28.35.032(g) is amended to read:

4 (g) Upon conviction of a person under this section, the court
5 shall impose a minimum sentence of imprisonment of not less than 240
6 [72] consecutive hours and a fine of not less than \$500 [\$250] if the
7 person has not been previously convicted in this or another jurisdic-
8 tion of driving while intoxicated under AS 28.35.030 or another law or
9 ordinance with substantially similar elements or refusal to submit to
10 a chemical test under this section or another law or ordinance with
11 substantially similar elements. Upon conviction under this section the
12 court shall impose a minimum sentence of imprisonment of not less than
13 20 consecutive days and a fine of not less than \$750 [\$500] if, within
14 the preceding 10 years, the person has been previously convicted once
15 in this or another jurisdiction of driving while intoxicated under
16 AS 28.35.030 or another law or ordinance with substantially similar
17 elements or refusal to submit to a chemical test under this section or
18 another law or ordinance with substantially similar elements. Upon
19 conviction under this section the court shall impose a minimum sen-
20 tence of imprisonment of not less than 30 consecutive days and a fine
21 of not less than \$1,000 if, within the previous 10 years, the person
22 has been previously convicted in this or another jurisdiction of more
23 than one of the following offenses or has more than once been previ-
24 ously convicted of one of the following offenses: (1) driving while
25 intoxicated under AS 28.35.030 or another law or ordinance with sub-
26 stantially similar elements; (2) refusal to submit to a chemical test
27 under this section or another law or ordinance with substantially
28 similar elements. A sentence under this section shall be reduced by
29 72 hours upon certification under AS 33.30.052 that the prisoner

1 completed 24 hours of alcohol and drug abuse education while in
2 custody. The execution of sentence may not be suspended nor may
3 probation be granted except on condition that the minimum imprisonment
4 provided in this section is served. Imposition of sentence may not be
5 suspended. If the offense involved driving a motor vehicle for which
6 a driver's license is required, the person's driver's license shall be
7 revoked under AS 28.15.181. In addition, the court shall order, and a
8 person convicted under this section shall undertake, for a term
9 specified by the court, that program of alcohol education or
10 rehabilitation that the court, after consideration of any information
11 compiled under (h) of this section, finds appropriate. The sentence
12 imposed by the court under this subsection shall run consecutively
13 with any other sentence of imprisonment imposed on the committed
14 person.

15 * Sec. 4. AS 28.35.032(i) is amended to read:

16 (i) A person who is sentenced to imprisonment for 240 [72]
17 consecutive hours under (g) of this section and who is not released
18 from imprisonment after 240 [72] hours may not bring an action against
19 the state or a municipality or its agents, officers, or employees for
20 damages resulting from the additional period of confinement if

21 (1) the employee or employees who released the person
22 exercised due care and, in releasing the person, followed the standard
23 release procedures of the prison facility; and

24 (2) the additional period of confinement did not exceed 12
25 hours.

26 * Sec. 5. AS 33.30 is amended by adding a section to read:

27 Sec. 33.30.052. COMMISSIONER TO PROVIDE ALCOHOL AND DRUG ABUSE
28 EDUCATION PROGRAM. The commissioner shall establish within each
29 prison facility where persons convicted under AS 28.35.030 and

1 28.35.032 are confined an alcohol and drug abuse education program
2 offering certification to persons who successfully complete 24 hours
3 of education and counseling while in custody.